

Municipal Council Special Meeting
Minutes
Town Hall Auditorium
6:30PM
Wednesday, September 28, 2005

Pledge of Allegiance – Councilor Chandler

Roll Call: James D. Chandler, Ann Connolly King, Esther F. Headley, Anne C. Larnard, Christopher G. Lawrence, Mario J. Pinerio, Robert D. Woodsom, Roger Benson and Joseph W. McMilleon

2005-102-A Appointment of Charter Review Committee

Councilor McMilleon asked for a motion.

Councilor Lawrence commented that they have only received part of the information required per section 2-4 of the Charter, Certificate of Appointment. We don't have the Certificate of Appointment with the back up information which would give us the reason as to why these people have been chosen and their qualifications so I don't know where that information is but we should have that.

Mayor Hildt apologized for the oversight in not presenting you with the applications of the persons that I appointed. It was an inadvertent oversight however; we are here to consider a slate of volunteers who represent a broad spectrum of the town's interests given the number of applicants which was not large. I am prepared to comment on each or any of the appointees as I have interviewed each of them personally and have talked with them extensively and have received assurances from them that they have no hidden agenda and that they are going to approach this very serious task with an open mind and that they will conduct hearings in a full and open and full manner. After testimony is heard, they will deliberate and they will present their recommendations to me and to the Municipal Council. As you probably know, once the recommendations are approved by the presiding Mayor and the Municipal Council, I am recommending that under MGL, Sec 8, art. 89 of the Articles of Amendment that a home rule petition be filed to the legislature and that the legislature approve by a two-thirds majority our towns recommendations for a Charter change.

There are other ways this can be done. One is under Chapter 43B section 3 which is to invoke provisions to form a Charter Commission. It also could be about an 18 month process. The other is an abbreviated form which is done under 43B section 10. I believe the process that I am recommending and that the Attorney General's Municipal Director, Bob Ricci also recommended is the process that I described to you. I am aware that Sections 2-4 requires me to provide certificate of appointments, however I would submit that this is the first time any Mayor in Amesbury has submitted Charter Review appointments. Perhaps the erroneous understanding was that once the Council had approved my recommendations that I would submit the certificates to you. I would also like to say that I realize that this has been a long time coming. I can take a certain amount of blame for the delay. I would also point out that there are other things in our Charter that collectively and individually need to be looked at and reviewed. I would point out section 9-7 which has to do with re-enactment and publication of ordinances is one of them. As a Mayor who will be leaving soon, all I can tell you is that my sole interest in the outcome of this Charter review process is that it be as I had described it. Full, fair, open and encompassing all points of view, sifting through them and agreeing as a body to recommend a certain number of them. I have no personal interest outside of that. I would also say that of the appointees that I have recommended, I do believe that they represent a broad spectrum and would also point out that some of them are also unfamiliar with the Charter. That is not to say

that they lack intelligence; they have a great deal of ability and skill. In this particular case fresh minds can look at this document with a fresh perspective. I would ask that despite the fact that it has been a difficult year for all of us that we pull together and appoint this committee and let them get to work. Once they have been appointed I will contact Marilyn Contraras who is with the Department of Housing and Community Development who together along with Attorney Ricci will come out and give an orientation session or sessions to this committee to help them understand their charge and to help them form a time line and to answer any questions that they might have. That committee would then organize itself, conduct public hearings, draft a report which would be reviewed by the Mayor and Council and also town counsel and that Council and Mayor's approval would approve the final draft of legislation. The final step would be that this legislation would be approved subject to the approval of the voters. Contrary to what some people have indicated in various communications, this is a process that is going to require voter approval in order for it to be successful.

Councilor Lawrence: I requested twice via e-mail copies of the other applicants for the Charter Review Committee and I did receive a response. The response was that the Mayor is considering the applications as applications for employment therefore they are not public record. These are not really applications for employment so they are public record and I don't know why we couldn't get a copy of the other applicants.

Mayor Hildt: I will be happy to look into that Councilor Lawrence, but my reason for being reluctant to release those names is that I don't think that would serve any constructive purpose. I selected the people that I selected for the reasons that I stated and I felt that other applicants were not qualified for one reason or another. I do not care to public release their names because it may cause embarrassment to them and I think we need to move ahead and concentrate on the business of getting this charter committee going.

Councilor King commented that the Charter as it is gives the task of appointment to the Mayor who then gives us his recommendations and his choices of appointments and we vote with a two-third vote whether we accept that or not. There is no provision in there that we have any say over the process of what the Mayor came to in making those appointments no do we have access per the charter to any of the documentation that has been given to the Mayor for that. Solely what our purpose is according to the Charter is just whether we approve or not the Mayor's recommendations. We are not the people making the choices. We are not the people to second guess who were not added to the list that we are approving. That is purely the Mayor's purview to do that.

Councilor Pinierio: I agree with you but if you are going to follow the charter let the Mayor give us those certifications of appointment before we vote on these people here. Let's do this according to the Charter. Also, every other time someone is appointed to a board the people come in front of us. In this case there is no one here that I can ask a question to.

Mayor Hildt: This is a Municipal Council meeting and the Municipal Council directs how it wants to conduct the meeting. I have received no input from any Councilor's in that regard; therefore, I do not have any reason to know what it is to do. As far as the certificate, if we are just talking about a procedural matter, I will be happy to go upstairs and crank out certificates after this meeting and present them to the council. As I said earlier, I understood that the certificates were created after Council approval.

Councilor Woodsom: I don't see what the harm would be making a motion subject to the Mayor filing the certificates of appointment where this is clearly a housekeeping issue.

Councilor Headley: As long as he is doing what we asked him to do, why do we need to go back for more paperwork? We have the papers, we have had a chance to read them, we know who he gave us and why they wanted to be there and what they expect to do. I think taking up our time like this is just going to make it harder and harder to get anyone to do anything for the town of Amesbury.

Councilor Pinierio again comments that he would like to ask questions of some of those people who were recommended and that answers to those questions would help him determine his vote whether he would want them on the board or not. He stated that this should be sent back to the Mayor like they did before and the six candidates should come in front of the full Council so that we can ask them questions.

Councilor King stated that per her recollection this is the first council that has demanded or asked people to come before for appointments. Before appointments were made without the person being here upon recommendation of the Mayor.

Mayor Hildt stated that most of them were present at the Municipal Council meeting held on September 13, 2005.

Councilor Woodsom stated that if the candidates were supposed to be present it should have been up to the Council to invite them.

Councilor Pinierio: I would like to make a motion to recommend that the Town Clerk notify every member on the list to appear in front of the Council at our next Council meeting.

Councilor Lawrence seconded.

Councilor Larnard stated that she feels it is a little late. The opportunity was there at the last meeting and also that the Council President sent out notice that we were going to reschedule this. I have been here four years and I can remember time when we have appointed people without them being here. I also think that at the last meeting there were people here that were willing to speak and we weren't able to move on it because we wanted additional information and then tonight there are a couple more and I think that it is very unfair to the couple that are already here tonight so I would not support that motion at all.

A vote was taken for the motion:

In Favor = 2 (Pinierio, Lawrence)

Opposed = 6 (King, McMilleon, Benson, Larnard, Headley, Woodsom)

Abstained = 1 (Chandler)

Motion Failed

Councilor Woodsom motioned to accept the appointment subject to the Mayor filing certificates of appointment as required by section 2-4 of the Charter.

Councilor Larnard seconded

Councilor Lawrence motioned to suspend the rules to allow public comment.

Councilor Pinierio seconded.

In Favor = 8

Opposed = 1 (McMilleon)

Motion carries

Marc Deschenes: This is an extremely important committee that is being formed and section 9-9 requires that it is subject to the Municipal Council's approval. I don't think that it would hurt to give the people who have applied to this committee time. The last time we had a Charter review we went from a decentralized form of government to a more centralized form overnight. It is one of the most important committees that gets formed and that is why it is subject to your approval. I think you should take your time and meet these people. I hope you reconsider and invite these people in.

Roger Deschenes: I would just like to say that I am here if you would like to ask me any questions. I am tired of being used like a political football. Vote me up or down tonight.

Donna McClure: This is a very important committee and it has far reaching implications. There are people here tonight, maybe we could get the process started here tonight by talking to the ones that are here and then bring the rest back. My other question, is this an adhoc committee. If it is, adhoc is not required to follow the open meeting rules, posting minutes rules and I would like the answer to that question.

Josh Handverger: The Charter section 9-9 states it is a special committee that is responsible for making their own rules. It is an adhoc committee; they decide if they keep their own minutes, they appoint their own chair and their own secretary.

Councilor McMilleon: I know most of the people on this list and I think most of the council does too. I think actually most of the people that are here probably know a number of these people on this list. I don't have any lack of confidence. This is going to be a lengthy process as the Mayor indicated. It will be covered, it will be publicized. There will be meetings with the public for comments and it will come back to the Council and Mayor and will be thoroughly discussed and debated and looked into. It will not be done without people being able to question what is going on and changes and all of that.

Claude Gonthier: Nobody can deny that it states in the Charter that it is subject to your approval. That means that no matter who he appoints, if you people don't approve it isn't going to happen. That gives you more input on this than you have on other appointments. That gives it to me a special meaning. What is the great urgency to not have people come in and have an interview by you people and make sure that you are satisfied that these are the best people out there for the position. It is an important function and it will impact on our future. You want to go on record as appointing somebody blindly for somebody to review our charter? I don't think you should set that precedent of just somehow diminishing the importance of this committee by not even interviewing the people that you are going to appoint. It is an important responsibility and if it is an important responsibility that has to be mentioned in the charter then you ought to act on it accordingly.

Obviously these people are going to need some sort of an operating budget. Is there an estimate of what this will cost and have provisions been made for that?

Donna McClure: I was not suggesting that these meetings would be held under the cloak of darkness. It was a simple question. Is this an adhoc committee? Will Bonni be posting notices that the meetings will be taking place? Will there be minutes? That is my simple question. I am not looking for anything other than that nor am I suggesting it would be in secret.

Bonnijo Kitchin: The committee itself will post the meetings in the Clerk's Office.

Councilor King: I agree with Roger Deschenes. I have such an issue with this being turned into a political football. I believe opening this up and bringing people in and asking people where they feel charter changes need to be sets it up for the Council that we are appointing somebody on whether we like the changes they want or not. This is a group of volunteers who are going to come together. Some have town experience and some do not. They take their collective life experience and they sit. We have somebody from the Attorney General's Office coming in. We have another state official coming in who is going to sit with these volunteers and give them their task of what they need to do. Give them guidelines to go by. We have to trust that these volunteers are coming out for the best benefit of the town. That is what a community is and that is what a community does. I think we need to start acting as a community and respect the people who offer their time.

Councilor Pinierio: Is there any harm in asking the two candidates that are here tonight?

Councilor McMilleon: We have a motion on the floor to pass this and it has been seconded and until we have a resolution on that motion we are not going to do anything.

Councilor Headley: I don't think it would be fair at this point to ask any questions from the candidates. They don't know at this point how they are going to vote or what they are going to vote. If they do then they are not good candidates because it takes time to listen to everybody, to all sides and it takes a lot of meetings.

Councilor Pinierio: Mr. President, I object to the vote. In the Charter page 7, Objection.

Councilor Benson: I don't think you can on an appointment.

Councilor McMilleon: We will take a 5 minute recess. (7:20 p.m.)

Councilor McMilleon declared the Municipal Council meeting back in session (7:25 p.m.)

In response to your objection Councilor Pinierio there is a definition under the rules and procedures for the council. There is a non measure definition. Non measures shall include all matters that come before the council which are not specified to be measures such as any matter which is executive, administrative or ministerial, or quasi-judicial, including without limitation, appointments, resolutions, proclamations, and the issuance of licenses.

In the section 3-7 you were quoting on (c) Objections; this is not a measure. It is a non measure, it is an appointment. I would rule your objection out of order.

Councilor Pinierio: I object to that. That is your interpretation of it. What is out of order on my objection?

Councilor McMilleon: An appointment falls under the category of a non measure as defined in the Council Rules and Procedures. The objection that you voiced is appropriate only to a measure and an appointment is not defined as a measure. Would the Clerk please call the role?

Councilor Benson: This is a motion to accept?

Councilor McMilleon: Yes.

Councilor Chandler = Abstain

Councilor King = Yes

Councilor Headley = Yes

Councilor Larnard = Yes

Councilor Lawrence = No

Councilor Pinierio = No

Councilor Woodsom = Yes

Councilor Benson = Yes

Councilor McMilleon = Yes

In Favor = 6; Opposed = 2; Abstain = 1 (Chandler)

Motion carried.

Councilor McMilleon: If there is nothing else to come before the Council I will entertain a motion.

Councilor Benson motioned to adjourn at 7:30 p.m. Councilor Larnard seconded and it was voted Unanimous.

Respectfully submitted,

Sharon Dunning
Administrative Assistant